

SUBJECT: Adjusting regulations on certain elements of vehicle towing and booting

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Frullo, Geren, Goldman, Paddie

0 nays

3 absent — Hernandez, Herrero, S. Thompson

SENATE VOTE: On final passage, April 25 — 31-0

WITNESSES: *On House companion bill, HB 3306:*
For — (*Registered, but did not testify:* Adam Cahn, Cahnman's Musings; Tommy Anderson and Joann Messina, Southwest Tow Operators; Jeanette Rash, Texas Towing and Storage Association)

Against — None

On — (*Registered, but did not testify:* Jim Arnold, Admiral Enforcement; Nora Del Bosque, Capital Parking ATX; Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code, sec. 2308 regulates towing and booting companies and operators. Sec. 2308.151 requires a towing operator to have a license to perform a towing or booting operation or operate a towing or booting company.

DIGEST: CSSB 1501 would repeal certain state licensing and regulation requirements for boot operators and booting companies and would allow local authorities to regulate booting activities in certain areas.

Local authorities. The bill would allow local authorities to regulate booting activities and related permit and sign requirements in areas where they regulate traffic or parking. A local authority's booting regulations

would be required to incorporate:

- existing state regulations on booting of unauthorized vehicles and new regulations added by the bill on boot removal;
- procedures for vehicle owners or operators to file complaints; and
- penalties for a booting company or operator that violated boot removal requirements.

Any boot operator's license or booting company license issued by the Texas Department of Licensing and Regulation would expire on September 1, 2018. The bill would allow an individual to perform booting operations or a booting company to operate unless otherwise prohibited by a municipal ordinance.

Boot removal requirements. The bill would create statewide regulations regarding boot removal for boot operators and booting companies. A booting company that installed a boot on a vehicle would be required to remove it within an hour of receiving a removal request from the vehicle's owner. The fee for the removal of the boot would be waived if the booting company failed to remove the boot within that time. A booting company also could not charge more for the removal of multiple boots on a single vehicle than the fee for the removal of a single boot.

University towing. The bill would allow an individual designated by a university to request that a vehicle parked at the university's campus be moved to another location on the campus to facilitate a special event. A vehicle could not be towed unless signs clearly indicating the towing enforcement, as well as related information outlined in the bill, were posted 72 hours preceding towing enforcement for a special event and 48 hours after the end of the event.

The bill would require that personnel be available to release the vehicle within two hours of receiving a release request and to accept payment for the vehicle's release. A university could not charge more than 75 percent of the private property towing fee. A vehicle unclaimed within 48 hours of the event's conclusion could only be towed to another location on the

university's campus and without further expense to the owner or operator. The university would have to notify the owner or operator of the right to a hearing regarding vehicle towing without consent.

Advisory board. The bill would change the name of the Towing, Storage, and Booting Advisory Board to the Towing and Storage Advisory Board, and would adjust its membership by including:

- a representative, rather than owner, of a vehicle storage facility in a county of less than 1 million, as well as one in a county of 1 million or more;
- a representative, rather than an owner, of a parking facility;
- a peace officer, rather than law enforcement officer, from a county of less than 1 million, as well as one from a county of 1 million or more;
- a representative of a member insurer of the Texas Property and Casualty Insurance Guaranty Association who writes automobile insurance in the state; and
- a person who operates both a towing company and vehicle storage facility.

The bill would remove a representative of a booting company from the board. Changes to the board's composition would apply only to board member vacancies that occurred on or after the bill's effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would not apply to the booting of a vehicle that resulted from an agreement that was established before the effective date.

**SUPPORTERS
SAY:**

CSSB 1501 would remove burdensome and unnecessary statewide licensing requirements and other regulations related to vehicle booting. In 2016, only 18 complaints were filed concerning licensed booting operators and companies, while no enforcement actions were taken. This demonstrates that public health, safety, and welfare can be maintained

while removing unnecessary licensing constraints.

Although concerns have been raised that the bill could create an uneven regulatory landscape and allow certain local authorities to impose unworkable booting fee ceilings, the Occupations Code already allows a municipality to regulate the fees that may be charged in connection with the booting of a vehicle. This bill would not represent a departure from current policy regarding the establishment of local booting fee regulations.

**OPPONENTS
SAY:**

CSSB 1501 would create an uneven regulatory landscape by giving local authorities the ability to regulate booting. The bill would allow local authorities to impose ceilings on the fees booting companies may charge, prohibiting companies from recouping their operating costs.

NOTES:

CSSB 1501 differs from the Senate-passed version in several ways. The committee substitute would allow for more than one boot to be placed on a vehicle at a time and would not allow the removal fee for multiple boots on the same vehicle to cost more than the removal fee for a single boot. CSSB 1501 also would regulate the towing of vehicles on university campuses during special events.

The Senate-passed version would require local authorities to include in their regulations a provision to provide for the revocation of any booting company or operator's permit, license, or other authorization if the company or operator had violated the bill's boot removal provisions twice within a five-year period. It also would take effect only if it received a specific appropriation from the 85th Legislature for its implementation.

A companion bill, HB 3306 by Kuempel, was approved by the House on May 6.